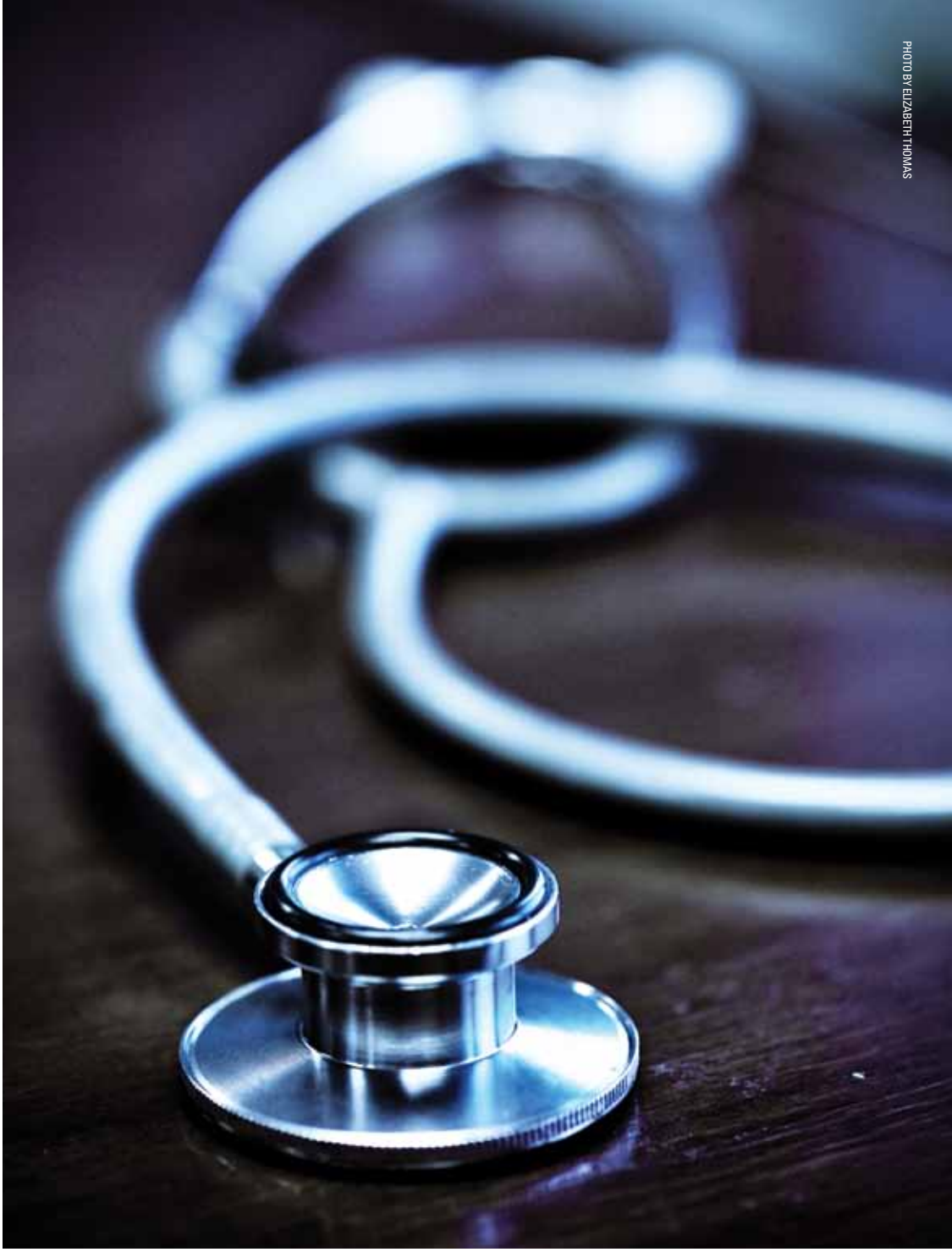

PHOTO BY ELIZABETH THOMAS

arguing that they were entitled to qualified immunity and that the case against them should have been dismissed. During the trial, both sides introduced evidence as to the proper medical protocol for dealing with someone having a seizure. While one witness testified that they do not restrain patients, another testified that they were taught to use physical contact to "rouse an unresponsive subject, to restrain the subject for safety if necessary, and to look for indications in the environment that might explain the subject's condition."

The first prong of a decision as to whether or not qualified immunity is justified is whether the right in question was "clearly established." The officers argued that "as responders to a medical emergency," they were entitled to the same immunity afforded to firefighters and EMS personnel in the case of Peete v. Metropolitan Government of Nashville and Davidson County, 486 F.3d 217 (6th Cir. 2007). They also argued that since McKenna was effectively unable to submit to their show of authority, he could not have been seized under the Fourth Amendment. The Court noted that in Peete, the restraint (which resulted in the patient's death) was being done to provide medical aid and was more in the nature of a medical malpractice claim than a Fourth Amendment claim, and agreed that in the right circumstances, Peete could extend to law enforcement officers. The Court concluded that Peete would be implicated when an officer is in the role of an emergency-medical responder, as there is not yet a clear indication that restraining and searching might violate the Fourth Amendment under those circumstances. However, in this situation, the Court was not convinced that "trying to get someone out of bed and … dressed" constituted "medical assistance."

The Court ruled that:

If the officers acted as medical-emergency responders, then McKenna's claim would amount to a complaint that he >>

BOUNDARIES